



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

FILE: [REDACTED] Office: Nebraska Service Center

Date:

OCT 3 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under § 244 of the  
Immigration and Nationality Act, 8 U.S.C. 1254a

IN BEHALF OF APPLICANT: [REDACTED]

Public Copy

INSTRUCTIONS:

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

*Terrance M. O'Reilly*

Terrance M. O'Reilly, Director  
Administrative Appeals Office

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**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who indicated on his application that he was present in the United States without a lawful admission or parole in November 1996. The director denied the application for Temporary Protected Status (TPS) under § 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, because the applicant failed to establish he had registered for TPS during the registration period lasting from January 5, 1999 through July 5, 1999, with an extension through August 20, 1999.

On appeal, the applicant states that, to the best of his knowledge, all information was submitted to qualify for late registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244.2, provide that an applicant who is a national of Honduras is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national of a state designated under § 244(b) of the Act;
- (b) Has been continuously physically present in the United States since January 5, 1999;
- (c) Has continuously resided in the United States since December 30, 1998;
- (d) Is admissible as an immigrant;
- (e) Is not ineligible under 8 C.F.R. 240.4; and
- (f)(1) Registers for TPS during the initial registration period, between January 5, 1999 and July 5, 1999 or (2) during any subsequent extension of such designation, in this case to August 20, 1999, if the applicant meets certain requirements.

The term continuously physically present, as used in 8 C.F.R. 244.1, means actual physical presence in the United States since January 5, 1999. Any departure, not authorized by the Service, including any brief, casual, and innocent departure, shall be deemed to break an alien's continuous physical presence.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by the Service. 8 C.F.R. 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. 244.9(b).

The applicant failed to register during the initial registration period or the subsequent extension period as the application was received at the Service office on October 27, 1999. The applicant

also failed to establish his eligibility for late registration as (1) he is not in a valid immigrant or nonimmigrant status; (2) he does not have an application for relief from removal or change of status pending or subject to further review; (3) he is not a parolee or does not have a pending request for parole and (4) he is not the spouse or child of an alien currently eligible to be a TPS registrant.

Further, the applicant failed to establish that he has been continuously physically present in the United States since January 5, 1999. A copy of a passport issued by the Honduran Consulate in Chicago on October 19, 1999, a September 13, 1998 apartment lease for one year for five occupants, a November 22, 1997 Western Union money transfer and an October 6, 1998 water and light bill at a previous address are insufficient.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of § 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.